

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 30-40 are pending in this case. Claims 30 and 40 are amended by the present amendment. As amended Claims 30 and 40 are supported by the original specification, no new matter is added.

In the outstanding Official Action, Claims 30-40 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1 and 30-33 of U.S. Patent Application No. 09/790,814 in view of Kim (U.S. Patent No. 6,766,103).

It is respectfully noted that the references listed in the Information Disclosure Statements (IDSs) filed April 23, 2004 and November 5, 2004 were not indicated as having been considered in the outstanding Office Action. With regard to the IDS filed April 23, 2004, the outstanding Office Action noted that the cited reference was not translated, and asserted that a statement under 37 C.F.R. §1.97(e) was not included.

Regarding the statement under 37 C.F.R. §1.97(e), such a statement is not necessary because the IDS was filed before the first Office Action. See 37 C.F.R. §1.97(b)(3).

Regarding the request for a translation, translations of the Office Actions from the Japanese Patent Office citing the references submitted on both April 23, 2004 and November 5, 2004 or English language abstracts of the references were included with each respective IDS, and these translations serve as statements of relevancy under 37 C.F.R. §1.98(3)(i). Accordingly, it is respectfully submitted that the IDSs filed April 23, 2004 and November 5, 2004 are in compliance with 37 C.F.R. §§1.97-1.98. Thus, copies of the PTO-1449 forms, copies of the translated Japanese Office Actions, and date

stamped filing receipts from these IDSSs are enclosed. It is respectfully requested that these references be considered.

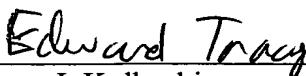
With regard to the non-statutory double patenting rejection of Claims 30-40 over Claims 1 and 30-33 of U.S. Patent Application No. 09/790,814 in view of Kim, the rejection is respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Accordingly, the outstanding double patenting rejection is traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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